not a habitual criminal, who has been arrested, but not convicted, on a criminal charge, or the publication under those circumstances of his Bertillon record."

CONTEMPT—MURDER OF PRISONER PENDING HIS APPEAL.—Johnson, a negro, was arrested on the charge of rape. Shortly after his arrest there were several unsuccessful attempts to lynch him. An immediate trial resulted in a verdict of guilty and he was sentenced to be hanged. The day before execution of the sentence, an appeal from an order of the Federal Circuit Court, denying relief by habeas corpus, was granted by the United States Supreme Court; execution was stayed. That night a mob broke open the jail and lynched Johnson while he was in the custody of the sheriff and his deputies. The Court reviews at length the conduct of the sheriff under the circumstances. *Held,* that the sheriff is in contempt because he was "in sympathy with the mob while pretending to perform his official duty, that he and some of his deputies aided and abetted the mob, and that these acts were committed by defendants with the intent upon their part to prevent the Court from hearing Johnson's appeal. (Mr. Justice Peckham, Mr. Justice White and Mr. Justice McKenna dissenting.) *United States* v. *Shipp et al.* (1909), 29 Sup. Ct. 637.

In this same cause the Court announces the rule that although it be without jurisdiction of the appeal before it, it is contempt to disregard its mandates preserving the existing conditions until it decides the question of its jurisdiction. *United States* v. *Shipp* (1906), 203 U. S. 563; 8 Am. & Eng. Ann. Cas. 265. Throughout the majority and dissenting opinions there is no authority cited except as to the preliminary point above. The decision is founded upon the inherent power of a court to punish for contempt. Diligent search by the writer has failed to disclose any case similar to the one under consideration. In one view of the case, it adds a new element to the problem of lynch law. "Sheriffs being officers of the court are guilty of contempt when they disobey the orders of the court or wilfully or intentionally neglect their duties." BAILEY JURISDICTION, p. 406. From the case it appears that because of malfeasance and non-feasance of the duties of sheriff, from which the Court finds him in sympathy with the mob, he is also charged with the mob's intent, which was to prevent the delay resulting from the appeal allowed by the Supreme Court.

COUNTIES—ACTION BY TAXPAYER—COMPENSATION OF ATTORNEY.—Plaintiffs, attorneys-at-law, brought action at the instigation of a citizen and taxpayer in behalf of the taxpayers of the said county to declare void certain illegal appropriations of county money. Having been successful, and being denied a fee by the county for the services rendered, this action is brought to recover a fee on the ground of contribution from the remaining taxpayers. *Held,* the action can not be maintained against the county as it is a subordinate, political division of the state. *Marion County* v. *Rives & McChord* (1909), — Ky. —, 118 S. W. 309.

At common law a county could neither sue nor be sued: *Chicot County* v.

Sherwood, 148 U. S., 529; *Board of Com'rs Hamilton County* v. *Mighels,* 7 Ohio St. 110; *Lowndes County* v. *Hunter,* 49 Ala. 507; *Rock Island County* v. *Steele,* 31 Ill. 543; 11 Cyc. 607. This rule under judicial decision has developed interestingly in Kentucky until it finds the following expression in the case under discussion: "Counties are not liable to suit, unless authority for it can be found in the statute, or it follows by necessary implication from some express power given." The court under this principle reaches the following conclusion: "Where a county has the power to make a contract, it would follow as an incident that it might sue or be sued concerning it." In denying the plaintiffs' relief, the Court decides that the language refers to express and not implied contracts. In the last quotation if we should substitute "state" in the place of "county," it is doubtful whether the theory assumed in deciding the case would justify the conclusion.

CRIMINAL LAW—WHAT CONSTITUTES A DISORDERLY HOUSE.—Defendant was charged with the habitual taking of usurious interest for loans made by him at his place of business, and convicted of keeping a disorderly house. (3 Gen. St. 1895, p. 3703.) On writ of error for review of the judgment of the Supreme Court affirming the conviction, it is *held* that a person who maintains a place of business, in which the law against usury is habitually violated, is guilty of the offence of keeping a disorderly house. *State* v. *Martin* (1909), — N. J. L.—, 73 Atl. 548.

In the common acceptance of the term, "disorderly house" has usually been held to involve moral turpitude or criminality. New York, for example, in Penal Code, §322, defines the keeper of a disorderly house as one "who keeps a house of ill fame, or assignation of any description, or a house or place for persons to visit for unlawful sexual intercourse, or for any lewd, obscene or indecent purpose, or disorderly house, or house commonly known as a 'stale beer dive'." Other states, whose legislatures have seen fit to define the term in so many words, have in each case incorporated into it an element of criminality or moral danger to the public, else it was not a disorderly house. The principal case, however, is well supported in New Jersey by former decisions. (*State* v. *Williams,* 30 N. J. Law 102; *State* v. *Hall,* 32 N. J. Law 158; *McLean* v. *State,* 49 N. J. Law 471; 9 Atl. 681; *Haring* v. *State,* 53 N. J. Law 664, 23 Atl. 581; *Meyer* v. *State,* 42 N. J. Law 145; *State* v. *Dimant,* 73 N. J. L. (44 Vroom.) 131, 62 Atl. 286.) These cases hold as a general principle, that any place public in nature, in which illegal practices are habitually carried on, is a disorderly house. The following are a few cases showing the more commonly accepted construction of the offense. *Kneffler* v. *Commonwealth,* (1893), 94 Ky. 359, 22 S. W. 446; *Commonwealth* v. *Kimball,* 73 Mass. (7 Gray) 328; *State* v. *Ireton,* 89 Minn. 340, 94 N. W. 1078; *Ramey* v. *State,* 39 Tex. Cr. R. 200, 45 S. W. 489; *State* v. *McGahan,* 48 W. Va. 438, 37 S. E. 573.

DAMAGES—ALLOWANCE OF ATTORNEY'S FEES—RULE IN HADLEY V. BAXENDALE APPLIED.—Defendant, a director of the plaintiff company and manager of one of its branches, was notified to renew a lease which was about to expire. After considerable delay he renewed the lease which contained a